

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

IN THE MATTER OF THE
ADMINISTRATIVE ACCESS TO:

FORMER CP RAIL MAINTENANCE
YARD SUPERFUND SITE

Located near:
215 Broadway
Whitehall, New York

EX PARTE APPLICATION
FOR ADMINISTRATIVE
WARRANT Under Section
104(e) of CERCLA

No.

ADMINISTRATIVE WARRANT FOR ENTRY UPON PROPERTY

TO: ANY AUTHORIZED EMPLOYEE, REPRESENTATIVE, CONTRACTOR,
OR SUBCONTRACTOR OF THE UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY AND THE UNITED STATES MARSHAL FOR THE
DISTRICT OF NEW YORK:

The United States has filed an *Ex Parte* Application for an Administrative Warrant submitted on behalf of the United States Environmental Protection Agency (EPA), and the Court finds that the Application demonstrates sufficient justification for entry onto and remaining on property identified in the Washington County tax records as parcel number Section 60.9, Block 2, Lot 8.6, also known as 215 Broadway, Whitehall, Washington County, New York, and the Former CP Rail Maintenance Yard Superfund Site (the CP Rail Site). The CP Rail Site is located in a semirural area on the edge of a suburban community and includes one parcel of real estate totaling approximately 28 acres in size, which is bordered to the north and west by US Route 4 (Broadway), to the

east by a Canadian Pacific Railway rail line and to the south by vacant, wooded land (collectively hereinafter, the Property), for EPA to take the actions discussed below.

The Court also finds that the United States has demonstrated through its Warrant Application and Memorandum submitted in support thereof that issuance of this Warrant is constitutional and based on the right of entry, an activity that is authorized by statute. The entry of the Property is authorized by Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9604(e), for the purpose of effectuating a response action relating to the release or threat of release of hazardous substances from the CP Rail Site pursuant to Section 104(a) of CERCLA, 42 U.S.C. § 9604(a).

The actions to be taken at the CP Rail Site include entering the Property to conduct an inspection of the Property, an assessment to determine the need for a response action, selection of a response action, implementation of the selected response action and/or otherwise enforce the provisions of CERCLA related to the release or threatened release of hazardous substances at the CP Rail Site.

NOW, THEREFORE, YOU ARE HEREBY AUTHORIZED TO:

Enter on and into, move about, remain on or about, and re-enter as necessary, the Property described above in the Town and Village of Whitehall, Washington County, New York, at all reasonable times for the purpose of conducting a response action, which may include an inspection of the Property, the assessment of the structural integrity of the

buildings on the Property, the taking of samples, and the removal of any materials containing CERCLA hazardous substances, and any other response action consistent with CERCLA, at the CP Rail Site.

ACCORDINGLY, IT IS ORDERED that:

All owners, occupants, and persons in control of the Property and in control of any containers on the Property or other hazardous substances, pollutants, or contaminants at the Property, if any, shall permit the persons specified above to enter the Property for the purposes specified above.

A copy of this Warrant shall be delivered to the occupant, if any, of the Property at the time of entry. If no occupant is present, a copy of this Warrant shall be left at the Property at the time of initial entry.

The duration of this Warrant shall be of such reasonable length as to enable EPA personnel or its agents to complete satisfactorily those actions specified above and authorized by Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and shall not extend longer than 9 months from the date of this Warrant, unless an extension of time is approved by the Court.

The United States Marshal is authorized to assist EPA in such manner as may be reasonably necessary and appropriate to execute this Warrant.

Upon the completion of entry activity described herein, a prompt return of this Warrant shall be made to this Court showing that the Warrant has been executed and that the entry has been completed within the specified time period above.

Dated this 22 day of October, 2024, at 11:38am, New York.


United States Magistrate Judge